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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

VICTOR MONDELLI,

Plaintiff,

v.

BERKELEY HEIGHTS
NURSING &
REHABILITATION CENTER,
MARINA FERRER, DIANE
WILVERDING, AND
JOHN/JANE DOES 1 through 5,

Defendants.

CIVIL ACTION

Case No. : 2:16-cv-01569-ES-SCM

**NOTICE OF APPEAL TO THE UNITED STATES COURT
OF APPEALS FOR THE THIRD CIRCUIT**

Plaintiff, Victor Mondelli, by and through Kenneth Rosellini, Esq., his attorney, appeals to the United States Court of Appeals for the Third Circuit from the Orders and Opinions of the District Court for the District Court of New Jersey dismissing Defendant and requiring improper discovery of the Defendant in connection with a F.R.C.P. 17 competency proceeding (Docket entries 42, filed and entered on November 1, 2021, requiring improper discovery of Defendant, 49, filed and entered on January 6, 2022 denying application for recusal of Magistrate

1 and District Court Judge, 50, filed and entered on January 10, 202, requiring
2 Defendant to respond to improper discovery requests, 55, filed and entered on
3 February 18, 2022, finding Defendant in violation of discovery orders, 61, filed
4 and entered on March 29, 2022, scheduling a competency hearing, 65, filed and
5 entered on October 20, 2022, administratively terminating case, 70, filed and
6 entered on June 2, 2023, denying Defendant's appeal to District Court Judge from
7 Magistrate orders, 76, filed and entered on February 8, 2024, dismissing case with
8 prejudice.

9 The issues in this appeal include, *inter alia*, that the District Court
10 improperly dismissed the Plaintiffs' claims against the Defendants, while issuing
11 discovery case management orders allowing for improper discovery as part of a
12 F.R.C.P. 17 inquiry into Plaintiff's mental health competency, and chose not to
13 appoint a guardian ad litem as to this inquiry, despite Plaintiff's counsel's
14 assertion at the case management conferences that this should be part of the
15 F.R.C.P. 17 inquiry. The Court improperly dismissed Plaintiff's case by
16 demanding improper discovery from him in connection with the F.R.C.P. 17
17 inquiry which he objected to and/or was unable to provide.

18 The parties to the Orders and Opinions appealed from and the names and
19 addresses of their respective attorneys are as follows:

20
21 **RYAN THOMAS GANNON, ESQ.**

22 MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN

23 425 EAGLE ROCK AVENUE

24 ROSELAND, NJ 07068

25 973-618-4115

26 Email: RTGANNON@MDWCG.COM

27 Attorneys for Defendants

28 BERKELEY HEIGHTS NURSING & REHABILITATION CENTER,

MARINA FERRER, DIANE WILVERDING

Date: March 11, 2024

/s/ Kenneth Rosellini

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